

Message Text

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PAGE 01 STATE 131522

61

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INFO OCT-01 EUR-12 IO-10 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 EB-07

FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 TAR-01 TRSE-00 PRS-01

SP-02 OMB-01 FEA-01 EA-06 NEA-10 OPIC-03 SIL-01 GSA-01

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SUBJECT:GOVERNMENT PURCHASING: NOTE RESPONDING TO
GATT REQUEST

REF: OECD 14053

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PAGE 02 STATE 131522

1. CONTRARY TO WHAT WE THOUGHT WAS THE FINAL AGREEMENT

OF THE TCWP, THE PROPOSED TEXT RATHER APPROXIMATES THE POSITION PUT FORWARD AT THE MEETING BY THE EC. WE BELIEVE THIS TO BE A DISINGENUOUS REPORT -- THE FOLLOWING SUGGESTIONS ARE CONCEIVED AS MAKING THE DRAFT A MORE FORTHRIGHT REPORT WHILE AVOIDING A COMPLETE REDRAFT.

2. NO CHANGES ARE SUGGESTED FOR THE DRAFT PARAGRAPH 1 AND
2. THE FIRST SENTENCE OF PARAGRAPH 3 SHOULD BE REVISED TO READ: "THE DRAFT WAS PREPARED IN THE FORM OF OBLIGATIONS WHICH SIGNATORIES WOULD AGREE TO IMPLEMENT, THOUGH AT THIS STAGE NEITHER ITS FORM NOR ANY OF ITS PROVISIONS IMPLY ANY GOVERNMENT COMMITMENT."

3. FOR THE LAST PART OF PARAGRAPH 4 BEGINNING WITH THE SECOND I.E., SUBSTITUTE THE FOLLOWING: "PRACTICES IMPLEMENTED WITHOUT BENEFIT OF PUBLISHED RULES DURING THE DIFFERENT STAGES OF PURCHASING, IT WAS NECESSARY TO

DEVELOP GUIDELINES ON PROPOSED PROCEDURES TO FORECLOSE USE OF DISCRIMINATORY PRACTICES. COUNTRIES WHICH ADHERE TO THIS AGREEMENT ARE EXPECTED TO ALIGN THEIR NATIONAL PRACTICES TO CONFORM WITH THE INSTRUMENT. THE FACT THAT PROVISIONS ARE EXPECTED TO BE MADE BINDING IS PARTLY DUE, IN THIS RESPECT, TO THE NEED FOR EFFECTIVE GUARANTEES CONCERNING RECIPROCITY. THE LEGALLY BINDING CHARACTER OF THE PROPOSED INSTRUMENT IS INTENDED MAINLY AS AN ALTERNATIVE TO A HORTATORY SET OF RULES."

4. THE INTRODUCTORY CLAUSE AT THE BEGINNING OF PARAGRAPH 6 SHOULD BE REVISED TO READ: "INTERESTED SUPPLIERS WOULD BE ASSURED ACCESS TO ADVANCE PUBLICITY ON PURCHASING INTENTIONS," THE SECOND SENTENCE WOULD BE REVISED TO READ: "SUPPLIERS WOULD RECEIVE ALL RELEVANT INFORMATION NECESSARY TO EVALUATE THE REQUIREMENTS IN THE INVITATION AND PREPARE A BID." THE LANGUAGE LATER CONTAINED IN PARAGRAPH 6, "MORE FLEXIBLE PROCEDURES WITHOUT HAVING TO RESPECT ALL THE FORMAL PROVISIONS" SHOULD BE REPLACED BY "SINGLE TENDERING."

5. THE FOLLOWING SHOULD BE ADDED AT THE END OF PARAGRAPH LIMITED OFFICIAL USE

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PAGE 03 STATE 131522

9: "DISCUSSIONS ARE CONTINUING AS TO WHETHER THE OBLIGATIONS OF THE INSTRUMENT SHOULD BE WAIVED FOR OTHER REASONS SUCH AS BALANCE OF PAYMENTS PROBLEMS OR USE OF PROCUREMENT FOR AID TO DEPRESSED AREAS."

6. THE LAST SENTENCE OF PARAGRAPH 11 SHOULD BE REPLACED BY THE FOLLOWING: "IF BILATERAL CONSULTATIONS, WHICH ARE GIVEN AN IMPORTANT ROLE IN THIS CONTEXT, SHOULD FAIL AND

THE PROBLEMS ARE OF A SERIOUS NATURE, THE PARTIES
COULD LAUNCH AN APPEAL AT MULTILATERAL LEVEL VIA THE COM-
MITTEE OF SIGNATORY COUNTRIES, WHICH WOULD USE ITS GOOD
OFFICES IN AN ATTEMPT TO RESOLVE THE DISPUTE. STILL TO BE
RESOLVED IS THE QUESTION OF WHETHER, AFTER THIS STAGE,
DISPUTES ULTIMATELY WOULD BE SETTLED BY REFERENCE TO AN
IMPARTIAL SUBCOMMITTEE OR PANEL."

7. THE FOLLOWING TWO PARAGRAPHS SHOULD BE ADDED:
"PARAGRAPH 12 -- OBVIOUSLY, THE SYSTEM ENVISAGED BY THE
INSTRUMENT WOULD APPLY ONLY TO A VALUE OF CONTRACTS WHICH
WOULD BE OF INTEREST TO INTERNATIONAL SUPPLIERS. THAT
LEVEL HAS NOT YET BEEN FIXED PRECISELY." "PARAGRAPH 13 --
THESE DISCUSSIONS REPRESENT A PIONEERING EFFORT. LIKE
ALL SUCH EFFORTS THERE IS THE EVER-PRESENT PROBLEM OF
COMPLIANCE WITH ITS OBLIGATIONS. IN THIS REGARD THE
QUESTION OF THE NEED FOR PUBLICATION OF CONTRACT AWARDS
IS STILL TO BE RESOLVED." KISSINGER

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